IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

1. W.A. DREW EDMONDSON, in his capacity as)
ATTORNEY GENERAL OF THE STATE OF)
OKLAHOMA and OKLAHOMA SECRETARY)
OF THE ENVIRONMENT C. MILES TOLBERT,	,)
In his capacity as the TRUSTEE FOR NATURAL	,)
RESOURCES FOR THE STATE OF)
OKLAHOMA,)
OKL/HIOWIN,	
Plaintiff,)
riamum,)
***) Case No. 05-CV-0329-TCK-SAJ
V.) Case No. 03-CV-0329-1CK-SAJ
1. TYSON FOODS, INC.,	
2. TYSON POULTRY, INC.,)
· · · · · · · · · · · · · · · · · · ·)
3. TYSON CHICKEN, INC.,	
4. COBB-VANTRESS, INC.,)
5. AVIAGEN, INC.,)
6. CAL-MAINE FOODS, INC.,)
7. CAL-MAINE FARMS, INC.,)
8. CARGILL, INC.,)
9. CARGILL TURKEY PRODUCTION, LLC,)
10. GEORGE'S INC.,)
11. GEORGE'S FARMS, INC.,)
12. PETERSON FARMS, INC.,)
13. SIMMONS FOODS, INC., and)
14. WILLOWBROOK FOODS, INC.,)
Defendants,)
)
TYSON FOODS, INC., TYSON POULTRY, INC.,)
TYSON CHICKEN, INC., COBB-VANTRESS,)
INC., GEROGE'S INC., GEORGE'S FARMS,)
INC., PETERSON FARMS, INC., SIMMONS)
FOODS, INC., and WILLOW BROOK FOODS,)
INC.,	,)
)
Third-Party Plaintiffs,)
Time Turty Trainents,)
v.)
**)
1. CITY OF TAHLEQUAH,)
2. CITY OF TABLEQUAH, 2. CITY OF WESTVILLE,)
2. CITY OF WESTVILLE, 3. CITY OF WATTS,)
J. CILL OI' WALIS,	,

4. SEQUOYAH FUELS INTERNATIONAL,)
5. EAGLE NURSERY, LLC a/k/a MIDWESTERN)
NURSERY CONTAINERS DIVISION,)
6. PARK HILL PLANTS & TREES, INC.,
7. GREENLEAF NURSERY CO., INC.,
8. NORTHLAND FARMS, LLC,
9. WILLIAM D. LANGLEY,
•
10. RONALD LEE and LINDA S. FIDLER,
11. FIDLERS BEND FARMS & TRADING CO.,)
LLC,
12. DARRELL MOSS,
13. DARRYL CATES,
14. MILDRED RAYLS WOODWARD,)
15. ANCIL MAGGARD,
16. BRYAN SAND AND GRAVEL, INC.,
17. JESSE T. PROCTOR,
18. LENA and GARNER GARRISON,
19. BRAZIL CREEK MINERALS, INC.,
20. JULIE A. and JOHN E. COTHERMAN,
21. HELEN WATTS, Trustees of THE HELEN)
WATTS REVOCABLE TRUST,)
22. SIMP WATTS, Trustee of THE SIMP WATTS)
REVOCABLE TRUST,)
23. T&M SAND AND GRAVEL, INC.,
24. HOBY FERRELL,
25. GREATER TULSA INVESTMENTS, LLC,)
26. WAUHILLA OUTING CLUB,)
27. ONE DEGREE LAWN CARE AND)
LANDSCAPING,
28. BIG JOHN'S,
29. PRO LAWN SERVICES, INC.,
30. THORNTON LAWN & EXTERMINATING,
INC.,
31. SPRING HOLLOW FEED MILL, INC.,
32. TURF PROFESSIONAL,
•
33. CHERRY SPRINGS GOLF CLUB, INC.,
34. LAKE COUNTRY RESORT, INC., d/b/a
TENKILLER GOLF CLUB,)
35. MILLIE SERATT TRUST,)
36. ILLINOIS RIVER RANCH RECREATIONAL)
VEHICLE PARK PROPERTY OWNERS)
ASSOCIATION,)
37. ILLINOIS RIVER RANCH PROPERTY)
OWNERS ASSOCIATION,
38. FLINT RIDGE PROPERTY OWNERS)
ASSOCIATION, INC.,
)

39. MARJORIE A. GARMAN,	
40. RIVERSIDE RV RESORT AND)	
CAMPGROUND, LLC,	
41. FRATES PROPERTIES, INC.,	
42. BRIAN R. and MARY C. BERRY, individually)	
and d/b/a TOWN BRANCH GUEST RANCH,	
43. AUSTIN L. and LESLIE A. BENNETT,	
·	
individually and d/b/a EAGLE BLUFF RESORT,)	
44. BARNACLE BILLS MARINA, LLC, 15. DIVILIDADE DE CAMANA DE CAMAN	
45. PHILIP L. and CHERYL D. BEAMAN,	
46. FALCON FLOATS, INC.,	
47. NORMA J. BROOKS, Individually and d/b/a)	
COOKSON VILLAGE AND CABINS,)	
48. BURNT CABIN MARINA and RESORT, LLC,)	
49. FIN & FEATHER RESORT, INC.,	
50. JAMES and DOROTHY GENE LAMB,)	
51. STRAYHORN LANDING MARINA &)	
GENE'S SCUBA SALES,	
52. PINE COVE MARINA & CLEARWATER)	
CAFE', INC.,	
53. JOHN T. POSEY, JR. TRUST, individually	
and d/b/a MEADOW PARK RV PARK,	
54. SNAKE CREEK MARINA, LLC,	
55. ELK CREEK LANDING;)
•	,
56. FLINTRIDGE PARK, LLC, 57. DH L STEWART in divide the and d/h/s	
57. BILL STEWART, individually and d/b/a	
DUTCHMAN'S CABINS,	
58. TOM COTTON, individually and d/b/a	
CHICKEN CREEK VILLAGE STORE,	
59. JOHN T. POSEY, JR.,	
60. GRANDE VILLA, INC.,	
61. BISHOP H. and WILMA F. WADSWORTH,)	
individually and d/b/a COOKSON LOG)	
CABIN MOTEL,	
62. ARROWHEAD CAMP, INC.,	
63. DAVID and BRENDA SPEARS,	
64. THUNDERBIRD RESORT, INC.,	
65. WAR EAGLE FLOATS, INC.,	
66. VERAMAN and BILLIE DAVIS,	
67. SNAKE CREEK WILDERNESS	
DEVELOPMENT, INC.,	
68. SIXSHOOTER RESORT AND MARINA,	
•	
INC., O VIDGINIA M and ADCHIE D DEVTON O	
69. VIRGINIA M. and ARCHIE R. PEYTON,)	
JR., as Trustees of THE PEYTON FAMILY DEVICE: 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1.	
TRUST, individually and d/b/a PEYTON'S)	

PLACE,)
70. JOHN T. and GEORGE CRIPPS,)
71. EURMA WHITE, individually and d/b/a)
BARON FORK CREEK CAMP,)
72. EWELL VAN and ALICE L. EARL,)
individually and d/b/a PETTIT BAY CABINS)
& GROCERY,)
73. KEVIN R. and BARBARA L. KELLEY,)
individually and d/b/a DIAMOND HEAD)
RESORT,)
74. KENNETH D. and JANE T. SPENCER,)
individually and d/b/a SPENCER RIDGE)
RESORT,)
75. JAMES C. GEIGER, individually and d/b/a)
SPENCER RIDGE RESORT,)
76. JACK and BRENDA K. SPEARS, individually)
and d/b/a PINE VALLEY CABINS,)
77. STEPHEN R., JENNI and BRIAN R.)
HAMRICK, individually and d/b/a HANGING)
ROCK CAMP AND STORE,)
78. TAHLEQUAH LIVESTOCK AUCTION, INC.,	(
79. GORDON W. and SUSANN CLINTON,)
80. PERRY and NORMA WILLIAMS,)
81. TWIN CITY CONSTRUCTION, INC.,)
82. EDDINGS ELMO,)
83. CHARLINE EDDINGS LONG,)
84. LADONNA EDDINGS CAVINESS,)
85. THOMAS E. EDDINGS,)
86. SUE EDDINGS SHANKLE,)
87. BONNIE EDDINGS KILE,)
88. FLOYD SIMMONS,)
89. WILLIAM J. and CHERRIE HOUSE,)
90. RICKY and TONYA FOWLER,)
91. BILLY D. and NORMA GLENN,)
92. DAVID ALBERT and BOBBIE ANN)
STRATTON,)
93. ROBERT A. and SYLVIA S. SMITH,)
Trustees of THE ROBERT A. SMITH TRUST,)
94. ANNA MARIE SANDERS,)
95. DANNY E. and CAROLYN HIX,)
96. DAVID R. and ROBIN L. WOFFORD,)
97. HASKELL L. BROWN,)
98. JOHN NICKLE,)
99. J5 RANCH, LLC,)
100. TOM TATE,)
101. SKELLY RANCH, INC.,)

102. GENE and LORENE COLBURN,
103. TRUSTEES OF THE JOHN E. AND
VIRGINIA W. ADAIR FAMILY REVOCABLE
TRUST,
104. JOHN W. and VIRGINIA W. ADAIR,
105. CLARE LOUISE WELLS, individually and)
d/b/a MX RANCH,
106. LOUISE SQUYRES, individually and d/b/a
MX RANCH,
· · · · · · · · · · · · · · · · · · ·
107. SUZANNE M. ZEIDERS,
108. BOBBY and MARIAN WILLIAMS,
individually and d/b/a WILLIAMS DAIRY,)
109. BILLY SIMPSON,
individually and d/b/a SIMPSON DAIRY,)
110. RAY DEAN and DONNA DOYLE,
individually and d/b/a SIMPSON DAIRY,)
111. CLIFTON WILLIAMS, individually and d/b/a)
WILLIAMS DAIRY,)
112. JERRY D. and CHRISTINA WILLIAMS,)
individually and d/b/a SIMPSON DAIRY,)
113. DARRELL and DIANNA GUFFEY,
individually and d/b/a SELDON REST DAIRY,
114. LARRY R. and CAROLYN R. LOCKWOOD,)
115. CHARLES W. and KIMBERLEE WILSON,)
116. WILLIE and ELISE TARRANCE,
117. ILLINOIS RIVER VALLEY NURSERY,
INC.,
118. KERMIT and KATHERINE BROWN,
119. DEAN WILMOTH,
120. KATHERINE L. and KEVIN W. TYE,
121. THE HAYES FAMILY LIMITED)
PARTNERHSIP,
· · · · · · · · · · · · · · · · · · ·
122. FLINT CREEK FARM, LLC, 122. IAMES THOMAS and EDIN JONES
123. JAMES THOMAS and ERIN JONES,
124. TIM and ISABEL BAKER CO-TRUSTEES)
OF THE TIM AND ISABEL BAKER TRUST,)
125. DALE E. and ELLEN MATTHEWS, CO-
TRUSTEES OF THE DALE E. MATHEWS
TRUST,
126. CARL MERSEBURGH,
127. GAIL B. WILTON,
128. ROGER K. and LINDA MATHIS CANADA,)
129. BILLIE D. HOWARD,
130. RICHARD M. TAYLOR,)
131. IVAN MARION,
132. DANIEL L. PARKER,

133. BARTOW and WANDA HIX,)
134. RICKEY JOE and RITA HIX,)
135. JERRY W. HARE, Trustee of JERRY)
WAYNE HARE REVOCABLE TRUST,)
individually and d/b/a CRYSTAL CREEK)
RANCH,)
136. JERRY WAYNE and MARY JO HARE,)
individually and d/b/a CRYSTAL CREEK RANCH)
137. MARY JO HARE Trustee of MARY JO)
HARE REVOCABLE TRUST and d/b/a)
CRYSTAL CREEK RANCH,)
138. ANTHONY WAYNE HARE, individually)
and d/b/a CRYSTAL CREEK RANCH,)
139. FARRELL and JACKIE HAMM,)
140. TONY MARCUS and LAURA JANE HAMM)
141. TOM and DARYLENE HAMM,)
142. JIM R. BAGBY,)
143. JERRY and ANN MEANS,)
144. JERRY and DOROTHY ANN MEANS,)
Trustees of THE DOROTHY ANN MEANS)
TRUST,	,
145. JERRY and DOROTHY ANN MEANS,	,)
Trustees of THE JERRY L. MEANS TRUST,	,
146. RONALD ALLEN and COLLEEN BROWN,	,
147. ALFRED E. and CAROLYN S. HEMBREE,	,
148. STEVEN WESLEY CAIN,	,)
149. WANDA L. DOTSON,)
150. RIVER FARMS OF TAHLEQUAH, LLC,	,
151. EVELYN PROCTOR,)
152. MARK and MELISSA KELLY,)
153. PHILLIP DEWAYNE PROCTOR,)
154. M. WESLEY and BROOKS P. CONNOR,)
155. VERLIE B. SECRATT as Trustee of the)
VERLIE BERNIECE SECRATT REVOCABLE)
TRUST,	,
156. JAMES D. and SUSAN MORRISON,)
157. KENNETH E. DAVIS,)
158. TUMBLING T. BAR, LLC,)
159. EUGENE DILL, individually and d/b/a)
COOKSON COUNTRY STORE AND CABINS,)
160. DORIS MARES, individually and d/b/a)
COOKSON COUNTRY STORE AND CABINS)
161. JOHN AND/OR JANE DOE(S) 1 through 150,)
```	)
Third-Party Defendants.	)
•	

## UNOPPOSED MOTION BY ADDITIONAL MEMBERS OF THE BERRY GROUP FOR ENLARGEMENT OF TIME TO RESPOND TO THIRD-PARTY COMPLAINT

Pursuant to Fed.R.Civ.P. 7(b) and Local Civil Rule 7.1(g), the Third-Party Defendants who are identified herein, additional members of a group of Third-Party Defendants who are being collectively referred to as "The Berry Group," request that this Court issue an Order granting them an enlargement of time during which they must respond to the Third-Party Complaint (Dkt. #80). Counsel for The Berry Group has conferred with designated counsel for the Third-Party Plaintiffs, who has authorized moving counsel to advise the Court that the Third-Party Plaintiffs do not object to the relief requested herein. Third-Party Plaintiffs have agreed that the current members of The Berry Group may have until May 8, 2006, if necessary, to respond to the Third-Party Complaint.

1. This motion is filed on behalf of the following Third-Party Defendants, who are currently members of and collectively referred to as "The Berry Group" of Third-Party Defendants:

3 rd Party Def. #	Third-Party Defendant	
103	Trustees of the John E. and Virginia W. Adair Family Revocable Trust	
104	Adair, John W	
104	Adair, Virginia W.	
133	Hix, Bartow	
95	Hix, Carolyn	
95	Hix, Danny E.	
134	Hix, Ricky Joe	
134	Hix, Rita	
133	Hix, Wanda	
114	Lockwood, Carolyn R.	
114	Lockwood, Larry R.	
15	Maggard, Ancil	
94	Sanders, Anna Marie	

2. The forgoing members of The Berry Group of Third-Party Defendants have received suit papers at various times under various circumstances. The earliest day by which any of the forgoing members of The Berry Group is currently required to respond to the Third-Party Complaint was yesterday, April 6, 2006.

3. In the interest of coordination and efficiency among all parties and judicial economy, current members of The Berry Group request that the deadline for them to respond to Third-Party

Complaint be extended until May 8, 2006.

4. This is the first request for an extension of time sought by these members of The

Berry Group, and it is sought in good faith and not for the purpose of delay. Counsel for The Berry

Group need additional time within which to complete their review and investigation of Third-Party

Plaintiffs' claims, to confer with client representatives, and to prepare and file appropriate responses.

Members of the Berry Group reserve all defenses, including any deficiencies in the service of

process.

5. This action is not presently set for trial and therefore granting this Motion will not

delay or adversely affect any trial date.

WHEREFORE, the above named members of The Berry Group of Third-Party Defendants

request that this Court allow them until May 8, 2006 to file their responsive pleadings to the Third-

Party Complaint.

Respectfully submitted,

s/R. Jack Freeman

R. Jack Freeman

Okla. Bar No. 3128

E-mail: jfreeman@grahamfreeman.com

Tony M. Graham

Okla. Bar No. 3524

E-mail: tgraham@grahamfreeman.com

GRAHAM & FREEMAN, PLLC

6226 E. 101st Street, Suite 300

Tulsa, Oklahoma 74137

Telephone: 918- 298-1716

Facsimile: 918-298-1728

8

## **CERTIFICATE OF SERVICE**

I hereby certify that on the 7th day of April 2006, I electronically transmitted the foregoing Unopposed Motion By Additional Members of The Berry Group for Enlargement of Time to Respond to Third-Party Complaint using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Jo Nan Allen Frederick C Baker Tim Keith Baker Vicki Bronson Paula M Buchwald Louis Werner Bullock W A Drew Edmondson Delmar R Ehrich John R Elrod Bruce Wayne Freeman Richard T Garren **Dorothy Sharon Gentry** Robert W George James Martin Graves Robert Park Medearis, Jr James Randall Miller Robert Allen Nance George W Owens David Phillip Page Marcus N Ratcliff Robert Paul Redemann Melvin David Riggs Randall Eugene Rose Patrick Michael Ryan Robert E Sanders David Charles Senger Colin Hampton Tucker John H Tucker

Thomas James Grever Jennifer Stockton Griffin John Trevor Hammons Michael Todd Hembree Theresa Noble Hill Philip D Hixon Mark D Hopson Kelly S Hunter Burch Stephen L Jantzen **Bruce Jones** 

Jay Thomas Jorgensen Raymond Thomas Lay Nicole Marie Longwell Archer Scott McDaniel Kenneth Edward Wagner

Elizabeth C Ward Sharon K Weaver Timothy K Webster Gary V Weeks

Adam Scott Weintraub Terry Wayen West Edwin Stephen Williams Douglas Allen Wilson Lawrence W Zeringue

Linda Martin Chris A. Paul J. Ron Wright

I hereby certify that on the 7th day of April 2006, I served the same document by:

<u>X</u>	U.S. Postal Service	In Person Delivery
	Courier Service	E-Mail

on the following who are not registered participants of the ECF System:

Thomas C. Green Sidley Austin Brown & Wood LLP 1501 K St. NW Washington, DC 20005

C Miles Tolbert Secretary of the Environment State of Oklahoma 3800 North Classen Oklahoma City, OK 73118

William H Narwold Motley Rice LLC (Hartford) 20 Church Street, 17th Floor Hartford, CT 06103

Date: April 7, 2006

s/R. Jack Freeman R. Jack Freeman Okla. Bar No. 3128

E-mail: jfreeman@grahamfreeman.com

GRAHAM & FREEMAN, PLLC 6226 E. 101st Street, Suite 300 Tulsa, Oklahoma 74137

Telephone: 918- 298-1716